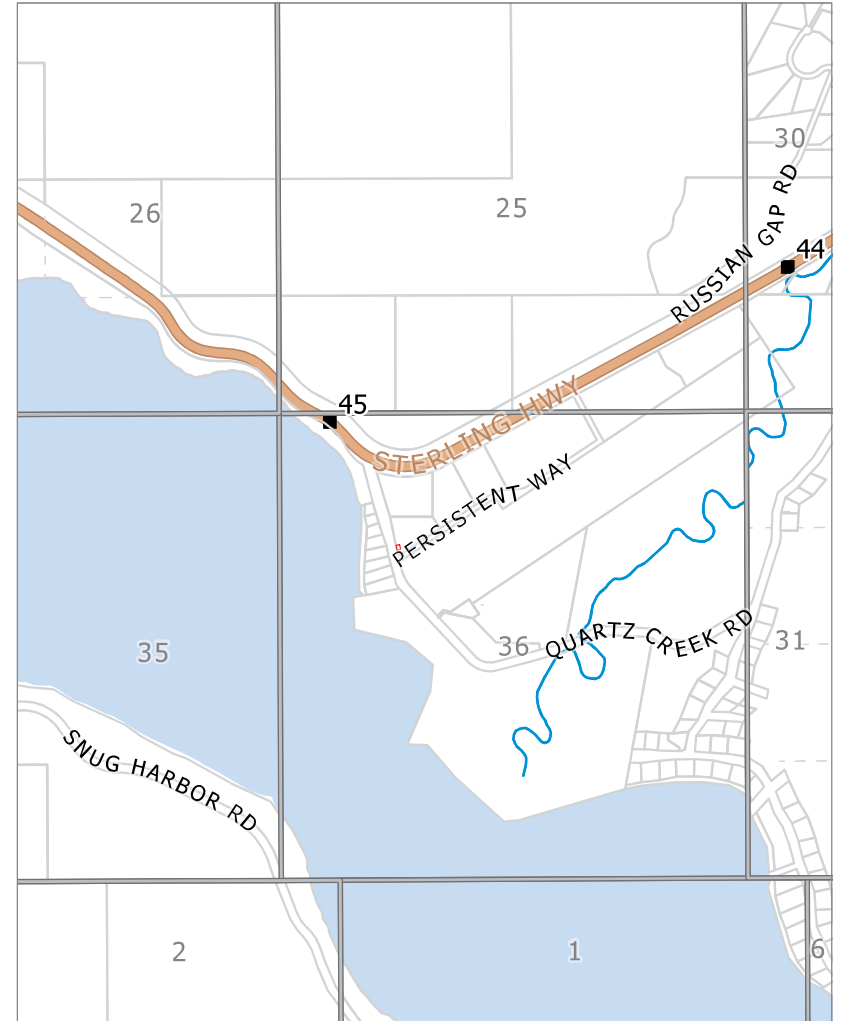
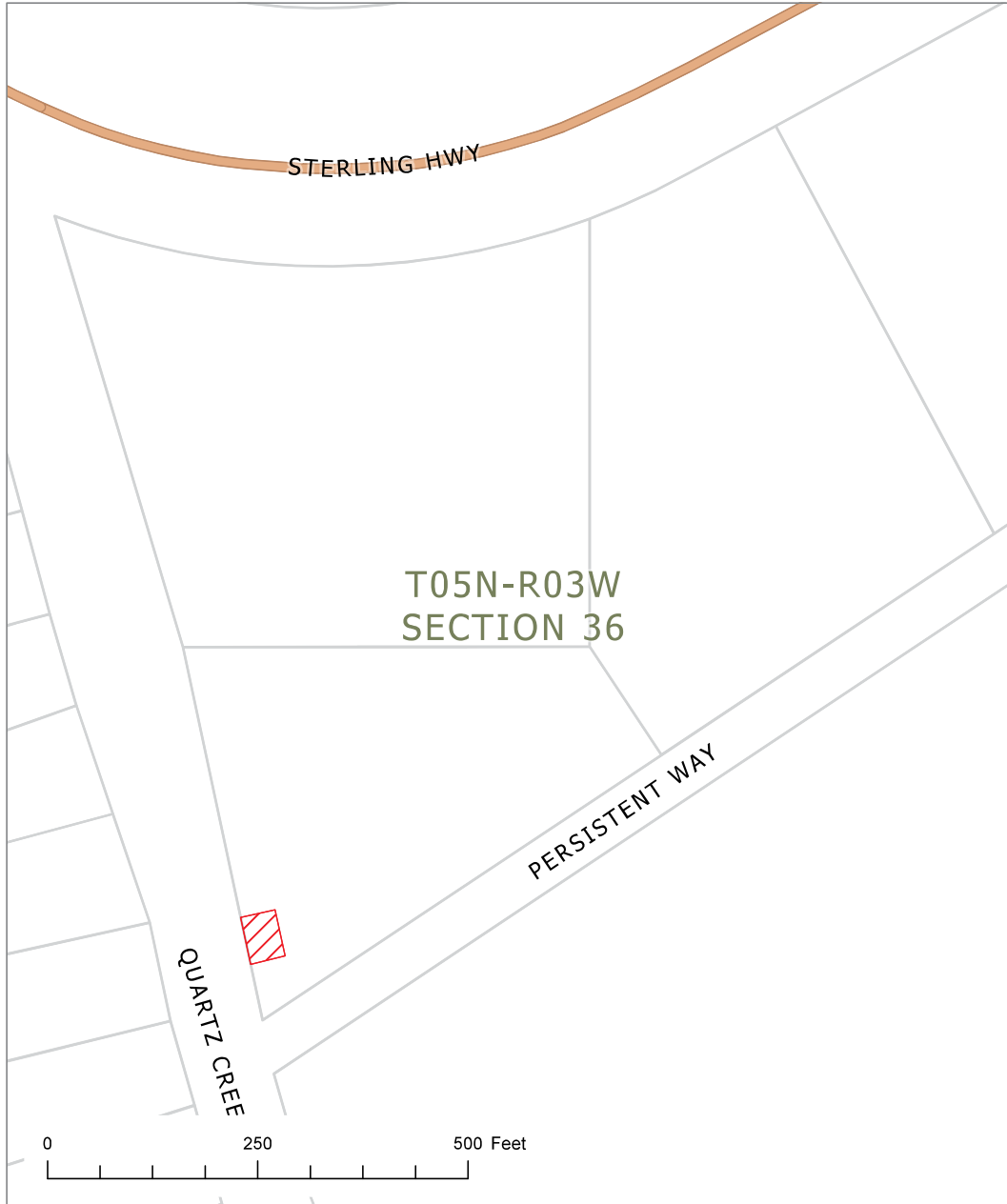


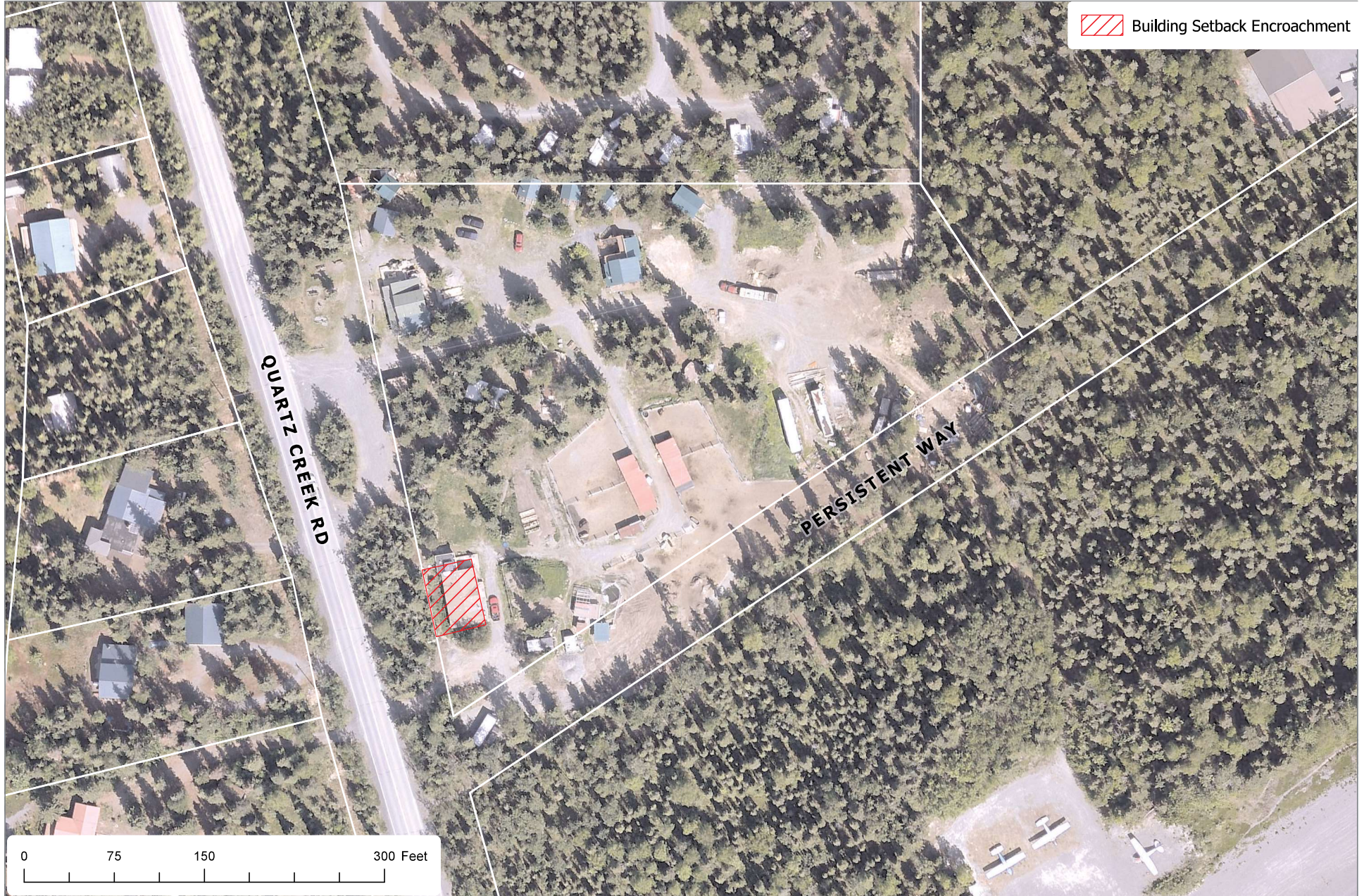
C. CONSENT AGENDA

- *2. Planning Commission Resolution**
 - a. PC Resolution 2023-22**

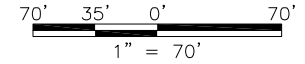
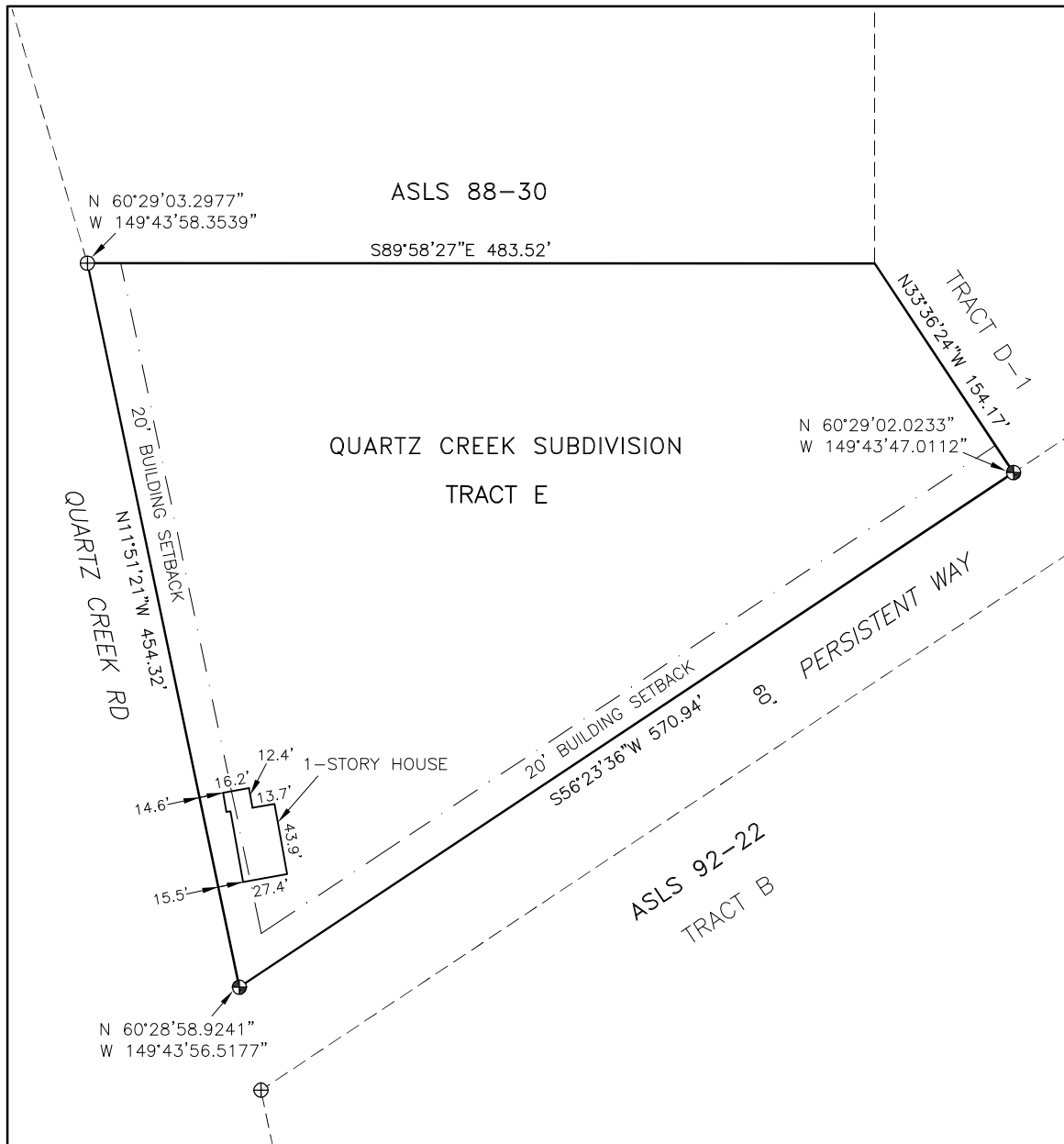


KPB File 2023-072
T 05N R 03W SEC 36
Cooper Landing

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



NOTES

1. A TITLE REPORT WAS NOT PREPARED FOR THIS SURVEY. ADDITIONAL RECORDED AND UNRECORDED EASEMENTS MAY EXIST.
2. BUILDING DIMENSIONS ARE TO THE FACE OF THE BUILDING.
3. BEARINGS AND DISTANCES ARE FROM FIELD MEASUREMENTS AND PLAT SW 94-11.
4. ADDITIONAL BUILDINGS AND IMPROVEMENTS THAT DO NOT ENCROACH THE RIGHT-OF-WAY OR BUILDING SETBACK LINE ARE NOT SHOWN ON THIS AS-BUILT.

LEGEND

- ⊕ FOUND 3.25" ALUMINUM MONUMENT
- ⊕ FOUND 2" ALUMINUM MONUMENT

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I HAVE PERFORMED AN AS-BUILT SURVEY ON THE PROPERTY SHOWN HEREON, AND THE IMPROVEMENTS EXIST AS SHOWN. FIELD SURVEY ON 08/25/2023.

Jason Schollenberg 08/28/2023

JASON L. SCHOLLENBERG DATE
PLS 14488-S



PENINSULA SURVEYING, LLC 10535 KATRINA BOULEVARD NINILCHIK, AK 99639 (907)306-7065	
AS-BUILT SURVEY TRACT E, QUARTZ CREEK SUBDIVISION NW1/4 SECTION 36, T5N, R3W, SM, AK	
SCALE: 1" = 70'	DATE: 08/28/2023
DRAWN: JLS	SHEET: 1 OF 1

ITEM C2. – BUILDING SETBACK ENCROACHMENT PERMIT – QUARTZ CREEK SUBDIVISION BUILDING SETBACK PERMIT

KPB File No.	2023-072
Planning Commission Meeting:	September 11, 2023
Applicant / Owner:	Alexander and Sherry Kime of Cooper Landing, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying
General Location:	Quartz Creek Road, Cooper Landing APC, Cooper Landing

Parent Parcel No.:	119-124-15
Legal Description:	Tract E Quartz Creek Subdivision, SW 94-11
Assessing Use:	Commercial
Zoning:	Rural Unrestricted

STAFF REPORT

This building setback encroachment permit is a follow-up to a building setback permit request that was heard and approved at the August 14, 2023 Planning Commission meeting. The applicants were given a conditional approval to resolve the encroachments into Persistent Way and provide an updated as built to reflect the completion of the removal of the encroachments. The final as-built is has been submitted and staff is bringing Resolution 2023-22 before the Planning Commission for adoption.

Specific Request / Purpose as stated in the petition: We were unaware that our home is located within the 20-foot building set back until recently notified by the Kenai Peninsula Borough. The structure is a modular home that arrived in two sections, and when it was delivered, the two sections were moved around a bit before they were joined together. Apparently at this time the structure was placed slightly closer to the ROW that we realized. Our home has not been moved in the 20 years since it was purchased. According to the As-Built Survey provided by the Borough, the structure is set back approximately 15 feet, rather than 20 feet. The setback is populated with trees and the house is not clearly visible from Quartz Creek Road. The encroachment does not interfere with road maintenance. The encroachment does not interfere with sight lines or distances and does not create a safety hazard. Moving our home 5 feet at this point would cause a hardship and likely damage the structural integrity of the building, so we are requesting a Building Setback Encroachment Permit to remedy this situation that has recently come to our attention. Thank you for your consideration.

Site Investigation: Per the as-built survey there is a one-story house that is 5.4 feet by 56.3 feet into the building setback and that is the only structure applying for the encroachment permit.

Quartz Creek Road is a state-maintained road with varying widths. DOT was sent the as-built for review and was invited to comment. Persistent Way is not constructed and is 60 feet wide at the portion along the subject parcel.

There are no street views for Quartz Creek Road, but per KPB Imagery there are trees in between the travel surface of Quartz Creek Road and the encroachment in the setback.

The sight distance is not affected by the encroachment as it sits behind a grove of trees.

Staff Analysis: This area was originally subdivided by State of Alaska: DNR under Alaska State Land Survey No 91-22, SW 93-8. This plat created three tracts and dedicated Quartz Creek Road. The subject parcel was created by Quartz Creek Subdivision, SW 94-11 which dedicated Persistent Way and granted the 20-foot building setbacks along all dedicated rights-of-ways.

Terrain within the subject parcel is relatively flat and there are no classified wetlands in the area.

Quartz Creek Road has a varying width that narrows down as it comes south along this tract.

Cooper Landing Advisory Planning Commission recommended approval at their August 9, 2023 meeting. Minutes are included in the packet.

Findings:

1. This will resolve a current code compliance case.
2. Quartz Creek Road has a large width.
3. There is a treed area between the travel surface and the encroachment.
4. Persistent Way is unconstructed at this time.
5. The terrain is flat which would interfere with line of sight.
6. There is a 20-foot setback along all right of ways
7. 14.6 feet will remain of the setback
8. The tract is 3.48 acres in size.

20.10.110. – Building setback encroachment permits.

E. The following standards shall be considered for all building setback encroachment permit applications. Staff recommends the Commission select the findings they determine are applicable to the standards and vote on them:

1. The building setback encroachment may not interfere with road maintenance.

Findings 2-4 & 7 appear to support this standard.

2. The building setback encroachment may not interfere with sight lines or distances.

Findings 2- 8 appear to support this standard.

3. The building setback encroachment may not create a safety hazard.

Findings 2-8 appear to support this standard.

F. The granting of a building setback encroachment permit will only be for the portion of the improvement or building that is located within the building setback and the permit will be valid for the life of the structure or for a period of time set by the Planning Commission. The granting of a building setback permit will not remove any portion of the 20 foot building setback from the parcel.

G. The Planning Commission shall approve or deny a building setback encroachment permit. If approved, a resolution will be adopted by the planning commission and recorded by the planning department within the time frame set out in the resolution to complete the permit. The resolution will require an exhibit drawing showing, and dimensioning, the building setback encroachment permit area. The exhibit drawing shall be prepared, signed and sealed, by a licensed land surveyor.

KPB department / agency review:

KPB Roads Dept. comments	Out of Jurisdiction: No Roads Director: Griebel, Scott Comments: Quartz Creed Rd is an AK DOT managed ROW. They might be consulted concerning the request. No comments by the KPB RSA.
SOA DOT comments	DOT has no comments on the building setbacks presented. – Engineering.
KPB River Center review	A. Floodplain

	<p>Reviewer: Hindman, Julie Floodplain Status: Not within flood hazard area Comments: No comments</p> <p>B. Habitat Protection Reviewer: Aldridge, Morgan Habitat Protection District Status: Is NOT within HPD Comments: No comments</p> <p>C. State Parks Reviewer: VACANT Comments:</p>
State of Alaska Fish and Game	
Addressing	<p>Reviewer: Leavitt, Rhealyn Affected Addresses: 35090 QUARTZ CREEK RD</p> <p>Existing Street Names are Correct: Yes</p> <p>List of Correct Street Names: QUARTZ CREEK RD, PERSISTENT WAY</p> <p>Existing Street Name Corrections Needed:</p> <p>All New Street Names are Approved: No</p> <p>List of Approved Street Names:</p> <p>List of Street Names Denied:</p> <p>Comments: No comment</p>
Code Compliance	<p>Reviewer: Ogren, Eric Comments: Open Code Compliance Case for violation of 20 ft building setback. Encroachment would need to be approved or removed or modified</p>
Planner	<p>Reviewer: Raidmae, Ryan There are not any Local Option Zoning District issues with this proposed plat.</p> <p>Material Site Comments: There are not any material site issues with this proposed plat.</p>
Assessing	<p>Reviewer: Windsor, Heather Comments: No comment</p>
Cooper Landing Advisory Planning Commission	<p>Recommended approval by unanimous vote</p>

RECOMMENDATION:

Based on the standards to grant a building setback encroachment permit, **staff recommends** to adopt Resolution **2023-22**, subject to compliance with KPB 20.10.110 sections F and G.

NOTE:

20.10.110.(H) A decision of the planning commission may be appealed to the hearing officer by a party of record, as defined by KPB 20.90, within 15 days of the date of notice of decision in accordance with KPB 21.20.250.

END OF STAFF REPORT

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
RESOLUTION 2023-22
SEWARD RECORDING DISTRICT**

GRANT A BUILDING SETBACK ENCROACHMENT PERMIT TO A PORTION OF THE TWENTY FOOT BUILDING SETBACK FOR TRACT E, QUARTZ CREEK SUBDIVISION (SW 0940011); IN NE 1/4 S36, T05N, R03W; SEWARD MERIDIAN, ALASKA, WITHIN THE KENAI PENINSULA BOROUGH; KPB FILE NO. 2023-072

WHEREAS, per KPB 20.30.240 – Building Setbacks, a minimum 20-foot building setback shall be required for fee simple non-arterial rights-of-way in subdivisions located outside incorporated cities; and

WHEREAS, Alexander and Sherry Kime of Cooper Landing, AK requested a building setback encroachment permit to the 20-foot building setback along Quartz Creek Road granted by Quartz Creek Subdivision (SW 0940011); and

WHEREAS, per as built survey a one-story home was constructed in the 20-foot building setback 5.4 feet by 56.3 feet; and

WHEREAS, the encroaching structure does not affect sight distance along the right-of-way; and

WHEREAS, on August 14, 2023, the Kenai Peninsula Borough Planning Commission considered the background information, all comments received, and recommendations from KPB Planning Department staff regarding the proposed exception; and the Planning Commission found that granting the building setback permit will not be detrimental to the public interest; and was heard at the September 11, 2023 the Kenai Peninsula Borough Planning Commission to review the final as-built and adopt the resolution; and

WHEREAS, the Planning Commission found that granting the building setback encroachment permit will not be detrimental to the public interest; and

WHEREAS, 20.10.110 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish building setback encroachment permits by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. Approved a permit to allow only the encroaching portion of the one-story house in the 20-foot building setback adjoining Quartz Creek Road right-of-way on the east boundary of Tract E, Quartz Creek Subdivision (SW 0940011).

Section 2. That any new, replacement, and/or additional construction will be subject to the 20-foot building setback limit.

Section 3. That the 20-foot building setback limit shall apply to the remainder of said lot.

Section 4. That a current as-built survey or sketch prepared, signed, and sealed by a licensed land surveyor showing the location of the encroachment within the building setback be attached to, and made a part of this resolution, becoming page 2 of 2.

Section 5. That this resolution is void if not recorded in the appropriate Recording District within 90 days of adoption.

Section 6. That this resolution becomes effective upon being properly recorded with petitioner being responsible for payment of recording fees.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON THIS 11TH DAY OF SEPTEMBER, 2023.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shimberg,
Administrative Assistant

Return to:
Planning Department
Kenai Peninsula Borough
144 North Binkley Street
Soldotna, Alaska 99669

MOTION: Commissioner Slaughter moved, seconded by Commissioner Gillham to adopt PC Resolution 2023-21, granting a building setback encroachment permit to Lot 3, Puffin Acres Subdivision, Plat HM 85-122, based on staff recommendations and adopting and incorporating by reference findings 1-3 & 6 in support of standard one, findings 1-4 & 6 in support of standard two and findings 1-6 in support of standard three, as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
---------	--

ITEM 4 – BUILDING SETBACK ENCROACHMENT PERMIT – QUARTZ CREEK SUBDIVISION

KPB File No.	2023-072
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	Alexander and Sherry Kime of Cooper Landing, Alaska
Surveyor:	Jason Schollenberg / Peninsula Surveying
General Location:	Quartz Creek Road, Cooper Landing APC, Cooper Landing
Parent Parcel No.:	119-124-15
Legal Description:	Tract E Quartz Creek Subdivision, SW 94-11
Assessing Use:	Commercial
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Alex Kime, Petitioner; 35090 Quartz Creek Road, Cooper Landing, AK 99572: Mr. Kime stated that the mistake of the placement of the house occurred 20 years ago. He acknowledged that the house encroaches into the setback. He stated that it would be very difficult to move the house and that it could possibly be damaged. He requested that the commission approve his permit request.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the commission.

MOTION: Commissioner Morgan moved, seconded by Commissioner Fikes to grant a building setback encroachment permit to Tract E, Quartz Creek Subdivision, Plat SW 94-11 based on staff recommendations and adopting by reference findings 2-4 & 7 in support of standard one and findings 2-8 in support of standards two and three, as set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

MOTION PASSED BY UNANIMOUS VOTE:

Yes - 8	Brantley, Fikes, Epperheimer, Gillham, Morgan, Slaughter, Tautfest, Venuti
---------	--

ITEM 5 – BUILDING SETBACK ENCROACHMENT PERMIT – FOSTER LAKE SUB AMENDED

KPB File No.	2023-075
Planning Commission Meeting:	August 14, 2023
Applicant / Owner:	James Zwack of Kasilof, Alaska
Surveyor:	Jerry Johnson/ Johnson Surveying
General Location:	Sapphire Loop, Sterling area
Parent Parcel No.:	063-840-13
Legal Description:	Lot 1 Block 2, Foster Lake Subdivision Amended, KN 85-63
Assessing Use:	Residential
Zoning:	Rural Unrestricted

Staff report given by Platting Manager Vince Piagentini.